

**ASSEMBLY BILL**

**No. 271**

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**Introduced by Assembly Member Nestande**

February 7, 2011

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An act to amend Section 904.1 of the Code of Civil Procedure, relating to appeals.

LEGISLATIVE COUNSEL'S DIGEST

AB 271, as introduced, Nestande. Appeals: class actions.

Existing law specifies the judgments and orders from which an appeal may be taken to the court of appeal.

This bill would add an order granting or denying class action certification, allowing appeal from the order at the discretion of the court of appeal. The bill would specify various factors the court would be required to consider in determining whether to allow the appeal.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 904.1 of the Code of Civil Procedure is
- 2 amended to read:
- 3 904.1. (a) An appeal, other than in a limited civil case, is to
- 4 the court of appeal. An appeal, other than in a limited civil case,
- 5 may be taken from any of the following:
- 6 (1) From a judgment, except (A) an interlocutory judgment,
- 7 other than as provided in paragraphs (8), (9), and (11), or (B) a
- 8 judgment of contempt that is made final and conclusive by Section
- 9 1222.

1 (2) From an order made after a judgment made appealable by  
2 paragraph (1).

3 (3) From an order granting a motion to quash service of  
4 summons or granting a motion to stay the action on the ground of  
5 inconvenient forum, or from a written order of dismissal under  
6 Section 581d following an order granting a motion to dismiss the  
7 action on the ground of inconvenient forum.

8 (4) From an order granting a new trial or denying a motion for  
9 judgment notwithstanding the verdict.

10 (5) From an order discharging or refusing to discharge an  
11 attachment or granting a right to attach order.

12 (6) From an order granting or dissolving an injunction, or  
13 refusing to grant or dissolve an injunction.

14 (7) From an order appointing a receiver.

15 (8) From an interlocutory judgment, order, or decree, hereafter  
16 made or entered in an action to redeem real or personal property  
17 from a mortgage thereof, or a lien thereon, determining the right  
18 to redeem and directing an accounting.

19 (9) From an interlocutory judgment in an action for partition  
20 determining the rights and interests of the respective parties and  
21 directing partition to be made.

22 (10) From an order made appealable by the provisions of the  
23 Probate Code or the Family Code.

24 (11) From an interlocutory judgment directing payment of  
25 monetary sanctions by a party or an attorney for a party if the  
26 amount exceeds five thousand dollars (\$5,000).

27 (12) From an order directing payment of monetary sanctions  
28 by a party or an attorney for a party if the amount exceeds five  
29 thousand dollars (\$5,000).

30 (13) From an order granting or denying a special motion to  
31 strike under Section 425.16.

32 (b) Sanction orders or judgments of five thousand dollars  
33 (\$5,000) or less against a party or an attorney for a party may be  
34 reviewed on an appeal by that party after entry of final judgment  
35 in the main action, or, at the discretion of the court of appeal, may  
36 be reviewed upon petition for an extraordinary writ.

37 (c) *A court of appeal may permit an appeal from an order*  
38 *granting or denying class action certification if the petition to*  
39 *appeal is filed within 14 days of the entry of the order. In reviewing*

1 *a petition to determine whether to permit an appeal under this*  
2 *subdivision, the court shall consider the following circumstances:*

3 *(1) Whether the trial court's order denying class status would*  
4 *effectively end the litigation and any reasonable possibility of*  
5 *prosecuting individual claims.*

6 *(2) Whether the trial court's order granting class status would*  
7 *place substantial pressure on the defendant to settle without regard*  
8 *to the merits of the case.*

9 *(3) Whether an interlocutory appeal of the order would facilitate*  
10 *the development of the law pertaining to class actions.*

11 *(4) Whether the order granting or denying class certification*  
12 *is clearly erroneous.*

13 *(5) Whether any other special circumstances exist that are*  
14 *sufficient to justify an interlocutory appeal.*